

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO.: 3:16-CV-00622-CWR-FKB**

**THE STATE OF MISSISSIPPI**

**DEFENDANT**

**THE STATE OF MISSISSIPPI'S DAUBERT MOTION TO EXCLUDE  
EXPERT TESTIMONY OF PLAINTIFF'S CLINICAL REVIEW TEAM**

The expert testimony of Plaintiff's Clinical Review Team (CRT) should be excluded as follows:

1. Plaintiff designated a CRT comprised of six experts to offer opinion testimony in this case. Plaintiff's CRT reviewed a sample of 154 individuals who have received treatment at one or more of Mississippi's State Hospitals. The methodology Plaintiff's CRT utilized in doing so was to answer four specific questions.

2. Question No. 1 is would the individual have avoided or spent less time in a State Hospital if he/she had been provided reasonable community-based services? The methodology concerning this question is flawed because, under Mississippi statutory law, the State Hospitals cannot deny admission to an individual who is committed to a State Hospital by a chancery court. Because the State Hospitals must comply with the commitment orders of the chancery courts, it is irrelevant whether Plaintiff's CRT believes the individual would have avoided or spent less time in a State Hospital if he/she had been provided reasonable community-based services.

3. Question No. 4 is whether the individual was appropriate for and would benefit from community-based services and, if so, what services would the individual need? This methodology is flawed because, as Plaintiff's CRT admits, the answer to the question of whether

an individual is appropriate for and would benefit from community-based services will always be “yes.” Because the CRT’s methodology is designed to reach a particular result – *i.e.*, that Mississippi allegedly unnecessarily institutionalizes adults with serious mental illness (SMI), the testimony of Plaintiff’s CRT is neither relevant nor reliable, and should be excluded.

4. Moreover, Plaintiff’s Complaint expressly states that it does not address Plaintiff’s claims regarding adults with intellectual and/or developmental disabilities (IDD).<sup>1</sup> Because Plaintiff’s Complaint does not address Plaintiff’s claims regarding IDD, Plaintiff should be prohibited from offering any testimony or evidence regarding IDD.

5. The State’s Motion is based on its supporting Memorandum and the following exhibits:<sup>2</sup>

Exhibit 1: Expert Report of Robert Drake.

Exhibit 2: Deposition of Beverly Bell-Shambley.

Exhibit 3: Deposition of Daniel Byrne.

Exhibit 4: Deposition of Robert Drake.

Exhibit 5: Deposition of Judith Baldwin.

Exhibit 6: Deposition of Katherine Burson.

### **Relief Requested**

For these reasons, the State’s Daubert Motion to Exclude Testimony of Plaintiff’s Clinical Review Team should be granted.

This, the 21st day of December, 2018.

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<sup>1</sup> Dkt. 1, Plaintiff’s Complaint, n.1, p. 26.

<sup>2</sup> The State is filing a separate motion to file all of these exhibits under seal because they contain protected health information.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on December 21, 2018, I electronically filed this document with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF counsel of record in this action.

/s/ James W. Shelson  
JAMES W. SHELSON